

## **Part 5**

### **Action Regarding a Certificate**

#### **31A-35-501 Emergency action regarding a license.**

- (1) If the commissioner determines, based on an investigation, that the public health, safety, or welfare requires emergency action, the commissioner may order a summary suspension of a bail bond agency license pending proceedings for revocation or other action.
- (2) The order described in Subsection (1) shall:
  - (a) state the grounds upon which the summary suspension is issued, including the charges made against the licensee; and
  - (b) advise the licensee of the right to an administrative hearing before the commissioner within 60 days after the summary suspension is ordered.

Amended by Chapter 234, 2016 General Session

#### **31A-35-502 Notification of violation of chapter.**

If the commissioner has reason to believe a person licensed as a bail bond agency, surety insurer, or bail bond producer has violated this chapter, written notice shall be sent to that person, advising the person of:

- (1) the alleged violation;
- (2) the commissioner's authority to take action against the person's license;
- (3) the person's right to an administrative hearing under Title 63G, Chapter 4, Administrative Procedures Act; and
- (4) the period of time within which the hearing described in Subsection (3) shall be requested if the person requests a hearing.

Amended by Chapter 234, 2016 General Session

#### **31A-35-503 Disciplinary action -- Hearing -- Appeal.**

- (1) Based on information the commissioner receives during a hearing described in Section 31A-35-502 regarding a person licensed as a bail bond agency or bail bond producer, the commissioner may:
  - (a) dismiss the complaint if the commissioner finds it is without merit;
  - (b) fix a period and terms of probation best adopted to educate the person;
  - (c) place the license on suspension for a period of not more than 12 months;
  - (d) impose a forfeiture pursuant to Section 31A-2-308; or
  - (e) revoke the license.
- (2) The commissioner shall advise the person described in Subsection (1) in writing of:
  - (a) the commissioner's findings based on the hearing; and
  - (b) the person's rights of appeal under this chapter.
- (3)
  - (a) Unless the conditions of Subsection (3)(b) are met, if a bail bond agency license is suspended or revoked under this chapter, a member, employee, officer, or director of that corporation may not:
    - (i) be licensed as a bail bond agency or bail bond producer; or
    - (ii) be designated in any license to exercise authority under this chapter during the period of the suspension or revocation.

- (b) Subsection (3)(a) does not apply if the commissioner determines upon substantial evidence that the member, employee, officer, or director:
  - (i) was not personally at fault; and
  - (ii) did not acquiesce in the matter on account of which the license was suspended or revoked.

Amended by Chapter 234, 2016 General Session

**31A-35-504 Failure to pay bail bond forfeiture -- Grounds for suspension and revocation of bail bond agency license.**

- (1) As used in this section:
  - (a) "Agency" means a bail bond agency.
  - (b) "Judgment" means a judgment of bail bond forfeiture issued under Section 77-20b-104.
- (2)
  - (a)
    - (i) An agency shall pay a judgment not later than 15 days following service of notice upon the agency from a prosecutor of the entry of the judgment.
    - (ii) An agency may pay a bail bond forfeiture to the court prior to judgment.
  - (b)
    - (i) A prosecutor who does not receive proof of or notice of payment of the judgment within 15 days after the service of notice to the agency of a judgment shall notify the commissioner of the failure to pay the judgment.
    - (ii) The commissioner shall notify the agency, by the most expeditious means available, of the nonpayment of the judgment.
    - (iii) The agency shall satisfy the judgment within five business days after receiving notice under Subsection (2)(b)(ii). If the judgment is not satisfied at the end of the five days, the commissioner may suspend the agency's license under Subsection (3).
  - (c) If notice of entry of judgment is served upon the agency by mail, three additional days are added to the 15 days provided in Subsections (2)(a), (2)(b), and (2)(d).
  - (d) A prosecutor may not proceed under Subsection (2)(b) if an agency, within 15 days after service of notice of the entry of judgment is served:
    - (i) files a motion to set aside the judgment or files an application for an extraordinary writ; and
    - (ii) provides proof that the agency has posted the judgment amount with the court in the form of cash, a cashier's check, or certified funds.
  - (e) As used in this section, the filing of the following tolls the time within which an agency is required to pay a judgment if the motion or application is filed within 15 days after the day on which service of notice of the entry of a judgment is served:
    - (i) a motion to set aside a judgment; or
    - (ii) an application for extraordinary writ.
- (3) The commissioner shall suspend the license of the agency not later than five days following the agency's failure to satisfy the judgment as required under Subsection (2)(b).
- (4) If the prosecutor receives proof of or notice of payment of the judgment during the suspension period under Subsection (3), the prosecutor shall immediately notify the commissioner of the payment. The notice shall be in writing and by the most expeditious means possible, including facsimile or other electronic means.
- (5) The commissioner shall lift a suspension under Subsection (3) within five days of the day on which all of the following conditions are met:
  - (a) the suspension has been in place for no fewer than 14 days;

- (b) the commissioner has received written notice of payment of the unpaid forfeiture from the prosecutor; and
- (c) the commissioner has received:
  - (i) no other notice of any unpaid forfeiture from a prosecutor; or
  - (ii) if a notice of unpaid forfeiture is received, written notice from the prosecutor that the unpaid forfeiture has been paid.
- (6) The commissioner shall commence an administrative proceeding and revoke the license of an agency that fails to meet the conditions under Subsection (5) within 60 days following the initial date of suspension.
- (7) This section does not restrict or otherwise affect the rights of a prosecutor to commence collection proceedings under Subsection 77-20b-104(5).

Amended by Chapter 234, 2016 General Session